

**Explanation:** This Ordinance repeals Chapter 36, Shade Tree Commission, of the Code of the Borough of Rocky Hill and amends Chapter 181, Trees, of the Code of the Borough of Rocky Hill to include the treatment or removal of trees, or parts thereof, where it shall be necessary and expedient for the preservation of the public health, safety, general welfare or to eliminate a fire hazard.

**Borough of Rocky Hill**

**Ordinance # 5, 2010**

**AN ORDINANCE REPEALING CHAPTER 36, SHADE TREE COMMISSION, OF THE CODE OF THE BOROUGH OF ROCKY HILL AND AMENDING CHAPTER 181, TREES, OF THE CODE OF THE BOROUGH OF ROCKY HILL TO INCLUDE THE TREATMENT OR REMOVAL OF TREES, OR PARTS THEREOF, WHERE IT SHALL BE NECESSARY AND EXPEDIENT FOR THE PRESERVATION OF THE PUBLIC HEALTH, SAFETY, GENERAL WELFARE OR TO ELIMINATE A FIRE HAZARD.**

**BE IT ORDAINED**, by the Mayor and Council of the Borough of Rocky Hill, County of Somerset, State of New Jersey, that the Code of the Borough of Rocky Hill is hereby amended as follows:

**Section 1.** Chapter 36, Shade Tree Commission, of the Code of the Borough of Rocky Hill is repealed in its entirety.

**Section 2.** Amend Chapter 181, Trees, of the Code of the Borough of Rocky Hill to read as follows:<sup>1</sup>

§ 181-1. Findings.

The Borough of Rocky Hill finds and declares that the public health, safety and welfare require that the streets, sidewalks, walkways and traffic control signs within its borders be visible and free of obstruction in order to allow both vehicular and pedestrian traffic to travel freely and to allow for unimpeded access to emergency vehicles. Further, in accordance with N.J.S.A. 40:48-2.13, the Borough of Rocky Hill finds and declares that, where it shall be necessary and expedient for the preservation of the public health, safety, general welfare or to eliminate a fire hazard, the Borough shall require that property owners treat, remove or destroy any diseased,

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<sup>1</sup> **Editor's Note:** The portions to be deleted are shown with strike-outs and will be deleted from the codified version of this Ordinance and the underlined portions will remain in the codified version of this Ordinance.

dead or dying trees, or parts thereof, such as branches, stumps, or roots that constitute a public hazard.

§ 181-2. Injuring shade and ornamental trees.

Any person who shall break, cut, mutilate, injure or destroy any shade or ornamental tree or bush standing anywhere within the Borough of Rocky Hill, except the owner or his agent of such land upon which the shade or ornamental tree or bush is growing, shall be deemed to have violated this ~~article~~ Chapter.

§ 181-3. Property owner responsible for trimming trees overhanging streets.

It shall be the responsibility of the owner of the property adjoining a public street, sidewalk or walkway to trim all shade or ornamental trees or bushes on his property so that the branches of such trees or bushes shall not overhang or extend over such public street at a height of less than ten (10) feet and at a height of less than eight (8) feet above the surface of the sidewalk or walkway.

§ 181-3.1 Property owner responsible for treating or removing diseased or infected trees.

It shall be the responsibility of the owner of the property to administer treatment to, or remove, any tree situate upon private property which is believed to harbor a disease or insects readily communicable to neighboring healthy trees provided the suspected condition is first confirmed by certificate issued by or on behalf of the New Jersey Department of Agriculture.

§ 181-3.2 Property owner responsible for removing dying or dead trees, or parts thereof, dangerous to public safety.

A. It shall be the responsibility of the owner of the property adjoining a public street, sidewalk, or walkway to remove any dying or dead tree, or parts thereof, situate upon private property that constitutes a danger of falling on a Borough thoroughfare.

B. The Council of the Borough of Rocky Hill shall on complaint to the Council or on its own motion hire a certified arborist or tree care specialist to determine if dying or dead trees, or parts thereof, on private properties adjoining public thoroughfares constitute a danger to public safety. Such arborist or tree care specialist shall have the right to enter upon private property to make such inspections as are required after the Clerk of the Borough of Rocky Hill has sent a notice by certified mail to the owner of the property that visual inspection from a public thoroughfare has indicated that there are sufficient grounds to believe that a given tree or trees, or parts thereof, on the owner's property constitute a hazard to public safety and require an examination to determine what remedial actions are required to remove the danger to the public.

C. A copy of the report and recommendations of the arborist or tree specialist hired by the Borough to perform such tree inspections as are required to ensure the public safety of Borough thoroughfares shall be forwarded to the respective property owner by the Clerk of the Borough of Rocky Hill by certified mail.

§ 181-4. Notice to trim, treat, or remove; deadline for compliance.

If any such trees or bushes shall overhang such public street, sidewalk or walkway, as defined in § 181-3; or be diseased, as defined in § 181-3.1; or be dangerous to the public safety, as defined in § 181-3.2 above, the owner of such property upon which the said tree or bush ~~growing is~~ situate shall be noticed of such fact by the Borough Constable that such vegetation is not in compliance with this ~~Ordinance Chapter~~ Chapter. Thereafter, such owner shall have ten (10) days after notice to trim, treat, or remove the tree, or parts thereof, or bush or otherwise correct the violation of this ~~Ordinance Chapter~~ Chapter.

§ 181-5. Property owner responsible for trimming trees overhanging signs.

It shall be the responsibility of the owner of the property adjoining a public street, sidewalk or walkway to trim all shade or ornamental trees or bushes on his property so that the branches of such trees or bushes shall not overhang or cover any traffic control signal or sign, or any other sign.

§ 181-6. Issuance of summons or complaint.

If such owner shall fail to correct the violation of this ~~Ordinance Chapter~~ Chapter within ten (10) days of the Borough Constable's notice of violation, it shall be the responsibility of the Borough Constable to issue a summons or complaint to the owner of the property for a violation of this ~~Ordinance Chapter~~ Chapter and such summons or complaint shall be ~~triable in~~ heard by the Municipal Court of the Borough of Rocky Hill.

§ 181-7. Continued noncompliance.

The Borough Constable may issue a summons or complaint to the owner of the property ten (10) days after the initial notice of violation, and every seven (7) days thereafter, that the trees or bushes ~~continue to overhang such public street, sidewalk, walkway or sign to be in violation of this Chapter and such violation~~ shall be subject to the issuance of a separate summons or complaint to the owner of the property. Each such summons or complaint shall be considered a separate and distinct violation. ~~of this article.~~

§ 181-8. Notice to remove; deadline for compliance.

The owner of lands abutting or bordering upon the public street, sidewalk or walkway in the Borough of Rocky Hill shall trim, treat, or remove the tree, or parts thereof, or bush or otherwise correct the violation of this Chapter ~~from that part of the street, sidewalk or walkway abutting or bordering upon his respective lands~~ within ten (10) days after notice to remove the same.

§ 181-9. Removal by Borough; cost charged to property owner; collection.

A. In case the owner of any land abutting or bordering upon any such street, sidewalk, or walkway shall neglect or refuse to trim, treat, or remove such tree, or parts thereof, or bush

within ten (10) days after notice to remove the same, the Borough of Rocky Hill may cause removal of the same in accordance with N.J.S.A. 40:48-2.13.

B. In all cases where said tree(s), or parts thereof, or bush(es) ~~is~~ have been removed by the Borough from said street, sidewalk, ~~or~~ walkway, or private property under and by virtue of the provisions of this ~~Ordinance~~ Chapter, the Clerk of the Borough of Rocky Hill shall certify the cost thereof to the Borough of Rocky Hill Council which shall thereupon examine the certificate and, if found correct, shall cause the cost as shown therein to be charged against the lands abutting or bordering upon such public street, sidewalk or walkway.

C. In accordance with N.J.S.A. 40:48-2.14, the amount so charged shall forthwith become a lien upon such land and shall be added to and become and form part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.

#### § 181-10. Violations and penalties.

A violation of this ~~Ordinance~~ Chapter shall, upon conviction, be punishable as provided in Chapter 1, General Provisions, Article I, General Penalty, herein, and each violation of any of the provisions of this Chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense. ~~by a fine of not more than \$50 for each offense.~~

**Section 3.** Should any provision of this ordinance be determined invalid by a court or administrative tribunal of competent jurisdiction, such determination shall not affect the remaining provisions.

**Section 4.** This ordinance shall take effect immediately upon final passage and publication as required by law.

ATTEST:

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Rebecca P. Newman  
Borough Clerk

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Edward Zimmerman, Mayor Acting

Introduced: August 16, 2010  
Public Hearing Scheduled: September 20, 2010  
Adopted: September 20, 2010

## CERTIFICATION

I, Rebecca P. Newman, Acting Clerk of the Borough of Rocky Hill, do hereby certify the foregoing to be a true and correct copy of an ordinance introduced by the Borough Council of the Borough of Rocky Hill on August 16, 2010.

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Rebecca P. Newman  
Acting Borough Clerk